IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 14TH DECEMBER 2006 / 23RD AGRAHAYANA 1928

WP(C).No. 33262 of 2006(I)

PETITIONER:

MOHAMMED SALAHUDHEEN,
S/O.ABOOBACKER HAJI (LATE),
AGED 55 YEARS, RESIDING AT 19/242,
PERINTHALMANNA MUNICIPALITY, PATTAMBI ROAD,
PERINTHALMANNA, MALAPPURAM DISTRICT.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS:

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1. THE PERINTHALMANNA SERVICE CO-OP.
BANK (P.534), MANNARKKAD ROAD,
PERINTHALMANNA, REP. BY ITS SECRETARY.

2. THE SECRETARY,
PERINTHALMANNA SERVICE CO-OP. BANK (P.534),
MANNARKKAD ROAD, PERINTHALMANNA P.O.

3. THE ASSISTANT REGISTRAR OF CO-OP.
SOCIETIES (GENERAL), PERINTHALMANNA.

BY SENIOR GOVERNMENT PLEADER SRI. P.N. SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M.JAMES, J.

W.P.(C). 33262/2006

Dated this the 14th day of December, 2006

JUDGMENT

Consequent on Ext.P1 award, passed by the third respondent, the Assistant Registrar of Co-operative Societies, execution proceedings had been initiated and the mortgaged property of the writ petitioner is brought under sale, as per the sale notice dated 21.11.2006 of Munsiff Court, Perinthalmanna. The plea of the writ petitioner is that he may be given an opportunity to challenge Ext.P1 award and till such time, the proposed sale of his property may be kept in abeyance.

2. Ext.P1 award was passed on 12.5.2003. Because of the non payment, the writ petitioner, who is the surety to the principal debtor, was proceeded against, including the sale of his property. The auction sale notification was made on 21.11.2006. From 12.5.2003 till 21.11.2006, the writ petitioner, being the surety, had not made any remittances. No permission of the Court is required for filing a revision before the Tribunal, nor the writ Court is within its power to interfere with the

law of limitation.

3. In such circumstances, without making any discussion on the merit of the matter, I direct the writ petitioner to approach the appropriate forum and redress his grievance. However, in order to enable the writ petitioner to raise his contentions and to ascertain the correct amount, due to the first respondent, bank, I allow three weeks time to initiate appropriate remedy before the proper forum. During the above period of three weeks from today, there shall be no sale of the execution property, scheduled on 18.12.2006.

4. However, I make it clear that if no orders are obtained from the appropriate forum by the writ petitioner within the above period of three weeks, the Execution Court shall proceed with the matter, as per the law.

The writ petition is disposed of as above.

Hand over.

J.M.JAMES
JUDGE

mrcs